

**California Department of Human Resources
Memorandum**

TO: Personnel Management Liaisons (PML)

SUBJECT: Employer Responsibilities Under the Affordable Care Act	REFERENCE NUMBER: PML 2014-038
DATE ISSUED: 10/31/2014	SUPERSEDES:

This memorandum should be forwarded to:

**TO: Employee Relations Officers
Personnel Officers
Personnel Transactions Supervisors**

FROM: California Department of Human Resources
Benefits Division

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The Patient Protection and Affordable Care Act (ACA) was enacted in March 2010 to ensure that individuals have access to quality and affordable health care. There are several provisions of the ACA that impact employers, such as the State of California. This memorandum provides information to departmental Human Resources (HR) staff on the provisions of the ACA that impact the state.

The California Department of Human Resources (CalHR) is overseeing statewide ACA implementation efforts to ensure that the state's human resources practices and processes align with the ACA. CalHR has worked closely with the State Controller's Office (SCO), California Public Employees Retirement System (CalPERS) and departmental subject matter experts to review the ACA provisions, identify impacts, and develop necessary processes and procedures to ensure that the state complies with the ACA mandates.

The state has already implemented some provisions of the ACA and is now implementing other provisions, which will require changes to how departments administer employee health benefits. The following provides an overview of the provisions that impact the state and explains key implementation activities critical to the departmental role in ensuring the state's compliance.

Provisions Already Implemented

W-2 Reporting on Employer-Sponsored Health Coverage—

In 2013, the state implemented the W-2 reporting on the cost of employer-sponsored health coverage. This reporting is for informational purposes only to inform employees of the value of their employer-sponsored health care benefits.

Health Insurance Marketplace Coverage Options Notice Requirements—

The ACA requires employers to provide notices to employees with information about the Health Insurance Marketplace, known as Covered California, and employer-sponsored health coverage.

In 2013, the state implemented the *Health Insurance Marketplace Coverage Options Notice* requirements. Departments are required to provide this Notice to all new employees, regardless of their health plan enrollment or eligibility status, within 14 days of the employee's hire date (reference [PML 2013-030](#)).

Provisions Effective Immediately

Summary of Benefits and Coverage Notice Requirements—

The ACA requires group health plans, health plan administrators, and employers to issue a *Summary of Benefits and Coverage Notice* to employees eligible for health coverage with information on the health plan options available to them so they can make informed decisions about the health plan they choose (Attachment A).

Effective immediately, departments are required to issue the *Summary of Benefits and Coverage Notice* to all employees newly eligible for health benefits no later than the first day the employee is eligible to enroll in health coverage. For example, if a health benefit-eligible employee is hired on August 12, departments must provide this Notice, along with the health enrollment forms (HBD-12 and HBD-12A) to the employee no later than September 1 (the earliest effective date of coverage).

The *Health Insurance Marketplace Coverage Options* and *Summary of Benefits and Coverage Notices* can be found at: <http://www.dpa.ca.gov/pie/main.htm>. Departments should copy and paste their departmental letterhead into the empty header of these notices before distributing to employees. This Notice will be updated annually.

ACA Notification Checklist—

To ensure the timely distribution of the *Health Insurance Marketplace Coverage Options* and *Summary of Benefits and Coverage Notices*, CalHR has developed the *ACA Notification Checklist* (CalHR Form 782). Effective immediately, departments must use this form to document the distribution of these notices (Attachment B). The two-part Checklist includes the following:

- **Part I** documents the distribution of the legally required *Health Insurance Marketplace Coverage Options Notice*. This section must be completed by the department representative responsible for providing the Notice to a newly hired employee within 14 days of the employee's hire date.

- **Part II** documents the distribution of the *Summary of Benefits and Coverage Notice* along with the health benefit enrollment forms to employees newly eligible for health benefits. This section must be completed by the department representative responsible for providing the Notice and enrollment forms to the employee.

Departmental HR staff must review and sign the Checklist to certify that the Notices were issued to employees within the specified time frames. Departments shall retain this document in the employee's Official Personnel File.

Provisions to be Implemented

Employer Shared Responsibility Provisions—

Beginning January 1, 2015, the state will be subject to the ACA's Employer Shared Responsibility provisions. These provisions require large employers¹ to offer health coverage to 95 percent of full-time employees,² defined as those who average 130 hours of service per month,³ and their dependent children to avoid penalty assessment. For ACA purposes, how the state appoints employees by tenure and time base is irrelevant (e.g., Permanent/Full-Time, Intermittent, etc.).

Failure to comply with the Employer Shared Responsibility provisions could result in significant penalties to the state if at least one full-time employee receives a premium tax credit for purchasing individual coverage through Covered California. The health coverage offered must also meet the ACA's affordability and minimum value standards. CalHR and CalPERS are responsible for ensuring the state's health plan products meet the law's affordability and minimum value requirements.

Penalties

Currently, the state meets the ACA's requirements pertaining to the offer of health coverage threshold required for 2015. However, if the state fails to meet these requirements on an annual basis, the state may be subject to the following penalties, which may impact departmental budgets:

¹ The ACA defines a "large" employer as having 50 or more full-time employees. All state departments/agencies are considered one employer for purposes of the ACA's Employer Shared Responsibility provisions.

² In 2015, the state is only required to offer health benefits to 70 percent of its full-time employees to avoid penalty assessment.

³ Hours of service includes any hour in which an employee is paid or entitled to payment during which no duties are performed due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence.

- Penalty A: No Coverage Penalty—The state may be subject to an annual \$2,000 penalty for each full-time state employee (minus the first 30 full-time employees) for failure to offer health coverage to at least 95 percent of its full-time employees.
- Penalty B: Inadequate Coverage Penalty—Even if the state offers health coverage to at least 95 percent of its full-time employees, it may be subject to a \$3,000 annual penalty for each full-time employee that receives a premium tax credit for purchasing individual coverage through Covered California, if the health coverage offered does not meet the law's affordability or minimum value standards.

Annual Reporting to the Internal Revenue Service (IRS)

To demonstrate compliance with the Employer Shared Responsibility provisions, the state will be required to file annual reports with the IRS, beginning January 2016, with information on each full-time employee and the health coverage that was offered to the employee and their dependent children.

The state will be required to report a number of data elements that are not currently captured by the SCO, such as an offer of health coverage. Currently the state only captures data on employees who are enrolled in health coverage, not whether an offer of coverage was made.

Although the state is not changing the eligibility rules for participation in the state's health benefits program, CalHR and SCO will implement processes and procedures to capture the data on the offer of health coverage to comply with the employer reporting requirements. This information is necessary to help the IRS make determinations about premium tax credits (for purchasing coverage through Covered California) and determining penalties.

Affordable Care Act System (ACAS) Database for Tracking Employee Health Benefit Status Information

To produce the reporting required by ACA, the SCO has developed the ACAS, which will capture the data elements the state will report to the IRS.

Beginning in January 2015, departmental HR staff will be required to enter specific health benefit status information for all employees into the ACAS. Following are examples of the health benefit status information to be entered:

- Distribution date of the *Health Insurance Marketplace Coverage Options Notice*;
- Offer of health coverage based upon eligibility;
- Acceptance or decline of health coverage; and
- Late enrollment or loss/cancellation of coverage.

The ACAS will be accessed like SCO's other online personnel and payroll systems (e.g., PIMS, HIST) and will have similar screen views. Instructions for obtaining ACAS access can be found in SCO's [Personnel Letter #14-011](#). SCO will issue a Personnel Letter later this year with detailed instructions on entering employees' health benefit status information into the ACAS. SCO Personnel Letters can be found at: http://www.sco.ca.gov/ppsd_sco_letters.html.

Departments are vital in implementing and administering these business process changes. Specifically, departments will be responsible for ensuring the timeliness and accuracy of the data captured on all employees in the ACAS by entering the health benefit status information in the pay period in which they are effective. Departments may also be required to assist SCO in validating data on employees in the ACAS in response to IRS inquiries.

ACA Training Modules

Two web-based training modules on the ACA's Employer Shared Responsibility provisions and the ACAS will be available to HR staff responsible for entering employees' health benefit status information into the ACAS. These training modules are available on CalHR's website at www.calhr.ca.gov (Affordable Care Act Training under State HR Professionals tab) and are described as follows:

- ACA Overview Video—This training video provides an overview of the Employer Shared Responsibility provisions of the ACA and the impact to the state (run time: approximately 8 minutes). This training is available now.
- ACAS Database Training Module—This module provides instructions to HR staff on how to document the health benefit status information for employees in the ACAS (run time: approximately 40 minutes). This training will be available mid-November.

Departmental HR staff that have "update" or "inquiry" access to the ACAS are required to complete these training modules by **December 31, 2014**.⁴ Department Personnel Officers must certify that all appropriate departmental HR staff have completed these training modules by submitting the attached *Affordable Care Act Training Self-Certification* document to elaine.smith@calhr.ca.gov by **January 16, 2015** (Attachment C).

Any new hires requiring access to the ACAS must complete both ACA training modules prior to obtaining access. Departments are also required to maintain a current list of HR staff that have completed the mandatory ACA training modules on file for audit purposes.

In addition to the training modules, an ACA training tool kit will be available to departmental HR staff responsible for entering employees' health benefit status information into the ACAS.

⁴ Refer to your department's SCO Security Authorization Form #PSD125A for a list of individuals who have access to ACAS.

Compliance Program

The state must ensure ongoing compliance with the ACA requirements. An ACA compliance program will be developed to ensure proper notification is provided to employees and that ACA-related business processes and procedures are followed to minimize the state's risk of penalties.

Departments, CalHR, and SCO will jointly monitor departmental compliance efforts. A variety of reports will be created to assist in monitoring activities (e.g., View Direct, etc.). Information about the ACA compliance program will be issued in Spring 2015.

Annual Employee Statements

In addition to fulfilling the state's annual compliance reporting to the IRS, the state is required to furnish a written statement to each full-time employee with information on the health coverage that was offered for each calendar year. These statements will be issued by January 31 each year and will assist employees in determining whether they may qualify for a premium tax credit if they purchase coverage through Covered California.

SCO will be providing this statement to employees on behalf of the state. The first statements will be issued by January 31, 2016, with information about the health coverage offered to the employee in 2015.

Additional Information

The analysis of the ACA regulations and IRS reporting requirements is ongoing. Other provisions, including automatic enrollment of new hires and implementation of the 40 percent excise tax on high-cost benefits, are set to take effect over the next few years. Updates on these provisions and any changes to business processes will be provided to departmental HR offices as necessary.

Questions or Assistance

Questions regarding this memorandum may be directed to aca.policy@calhr.ca.gov. For additional information on the ACA's Employer Shared Responsibility provisions, please refer to [Internal Revenue Code §4980H](#).

/s/Darlene Schell

Darlene Schell, Chief
Benefits Division

Attachment A: 2015 Summary of Benefits and Coverage Notice
Attachment B: Affordable Care Act Notification Checklist (CalHR 782)
Attachment C: Affordable Care Act Training Self-Certification Document

2015 Summary of Benefits and Coverage Notice

Choosing your health plan is an important decision. To assist you with this process, and in accordance with the Affordable Care Act, each health plan available to you through the California Public Employees' Retirement System has produced a Summary of Benefits and Coverage (SBC). The SBC provides important information to help you better understand your health benefit coverage and more easily compare health plan options.

To view the SBC online, visit www.calpers.ca.gov or any of the health plan websites below. To request a free copy of the SBC, please contact the health plan directly.

Anthem Blue Cross

(855) 839-4524

www.anthem.com/ca/calpershmo**Kaiser Permanente**

(800) 464-4000

www.kp.org/calpers**Blue Shield of California**

(800) 334-5847

www.blueshieldca.com/calpers**Peace Officers Research Association
of California (PORAC)***

(800) 288-6928

www.porac.org**California Association of Highway
Patrolmen (CAHP)***

(800) 734-2247

www.thecahp.org**PERS Select, PERS Choice, and PERSCare**

(877) 737-7776

www.anthem.com/ca/calpers**California Correctional Peace
Officers Association (CCPOA)***

(800) 257-6213

www.ccpoabtf.org**Sharp Health Plan**

(855) 995-5004

www.sharphealthplan.com/calpers**Health Net of California**

(888) 926-4921

www.healthnet.com/calpers**United Healthcare**

(877) 359-3714

www.uhc.com/calpers

*To enroll in these health plans, you must belong to the specific employee association and pay applicable dues.

Please contact your department's Human Resources Office with questions regarding eligibility and enrollment.

Affordable Care Act (ACA) Notification Checklist

This checklist is intended to document and ensure that departments/agencies are providing the legally required notices to employees for compliance with the ACA. **PART I** documents the distribution of the legally required Health Insurance Marketplace Coverage Options Notice to newly hired employees. **PART II** documents and tracks the distribution of the legally required Summary of Benefits and Coverage Notice and the health benefit status for employees newly eligible for health benefits. Both Parts I and II must be completed.

Upon completion, this document must be retained in the employee’s Official Personnel File.

Employee Name:		Hire Date:
Position Number:	SSN:	Tenure/Time Base:

PART I—NEW EMPLOYEES

Notice required to be provided to every new employee in your department/agency within 14 days of their hire date.		
1. Health Insurance Marketplace Coverage Options and Health Coverage Notice (<i>One time notice to all new hires</i>)	Date Provided	Department Representative:

PART II—EMPLOYEES NEWLY ELIGIBLE FOR HEALTH BENEFITS

Health benefit documents to be provided to employees newly eligible for health benefits by the first day the employee is eligible to enroll in coverage (e.g. employee is hired on August 12, the following documents must be provided to employee no later than September 1, the earliest effective date of coverage).		
1. Is employee <i>newly</i> eligible for health benefits?	If YES, go to question 2. If NO, no further action required.	
2. Provide the following forms: <input type="checkbox"/> Summary of Benefits and Coverage Notice (<i>One time notice to newly eligible employees</i>) <input type="checkbox"/> Declaration of Health Coverage (Form HBD-12A) <input type="checkbox"/> Health Benefits Enrollment (Form HBD-12)	Date Provided	Department Representative:

HUMAN RESOURCES OFFICE USE ONLY		
Agency/Department Name:	Reviewer’s Printed Name:	Contact Number:
I certify that data stated herein is correct, complete, and in accordance with all laws and regulations.	Reviewer’s Name/Signature:	Date:

**CALIFORNIA DEPARTMENT OF HUMAN RESOURCES
AFFORDABLE CARE ACT TRAINING
SELF-CERTIFICATION**

INSTRUCTIONS: Department Personnel Officers must complete this document to certify that all current Human Resources (HR) staff with access to the State Controller's Office (SCO) Affordable Care Act System (ACAS) database have completed the two Affordable Care Act (ACA) online training modules available on the California Department of Human Resources (CalHR) website at www.calhr.ca.gov (Affordable Care Act Training under State HR Professionals tab) by **December 31, 2014**. This one-time form must be completed and submitted to elaine.smith@calhr.ca.gov by **January 16, 2015**. Departments are also responsible for ensuring that new employees requiring access to the ACAS complete the ACA training modules prior to obtaining ACAS access.

While departments are not required to submit an updated self-certification form to include new employees, they are required to maintain a current list of all HR staff that have completed the mandatory ACA training modules on file for audit purposes.

To comply with the training mandate outlined in CalHR's Personnel Management Liaison #2014-038, departments must certify that all current HR staff with access to the ACAS (refer to your department's SCO Security Authorization Form #PSD125A for a list of individuals with access) have completed the following ACA training modules by **December 31, 2014**:

- ACA Overview Video—This video provides an overview of the Employer Shared Responsibility provisions of the ACA and the impact to the state and departments (run time: approximately 8 minutes).
- ACAS Database Training Module—This training module provides instructions to HR staff on how to document the health benefit status information for employees in the ACAS (run time: approximately 40 minutes).

AGENCY/DEPARTMENT INFORMATION		
Agency/Department Name:	3-Digit Agency Code(s):	
Number of Employees with Access to ACAS:	Number of Employees who Completed the ACA Training Modules:	
If all HR staff with ACAS access did not complete the training, please indicate reason:		
PERSONNEL OFFICER CERTIFICATION		
By signing this document, I hereby certify that all HR staff with access to ACAS have completed the above referenced ACA training modules. I also understand that any new employee to our department, who requires access to ACAS, must complete the ACA training modules prior to obtaining access.		
Signature:		Date:
Printed Name:	Phone Number:	Email Address: